

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEBRA MARIE CARR,

Defendant-Appellant.

UNPUBLISHED

June 6, 2006

No. 260958

Dickinson Circuit Court

LC No. 04-003208-FH

Before: Sawyer, P.J., and Kelly and Davis, JJ.

DAVIS, J. (*concurring*).

I concur in the result reached by the majority, and I concur in much of their reasoning. I respectfully disagree with the conclusion that the police officers' initial entry into defendant's garage was justified by the emergency-aid doctrine. At that time, the police were aware of defendant's interaction with others *after* the accident in which she was involved. The police had no reasonable cause to believe that defendant was injured or in need of emergency assistance. Furthermore, the police had time in which to seek a warrant.

However, under the circumstances of this case, ample other evidence of defendant's guilt remains even if all the evidence obtained from the garage is suppressed. Derks' testimony, defendant's breath test, and the subsequent Data Master test were together sufficient to find defendant guilty of operating while intoxicated and failing to report a property damage accident. Therefore, the officers' warrantless and constitutionally unjustified entry proved harmless in this case, so I concur in the result reached by the majority.

/s/ Alton T. Davis